



THE CITY OF NEW YORK
LAW DEPARTMENT

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January 17, 2024

Via ECF

Honorable Eric Komitee
United States District Court
Eastern District of New York
225 Cadman Plaza East
Courtroom 6G North
Brooklyn, New York 11201
New York, NY 10007

Re: Women of Color for Equal Justice et. al. v. City of New York, et. al.
Civil Action No.: 22-CV-02234
LM No.: 2022-021670

Dear Judge Komitee:

I am an Assistant Corporation Counsel in the Office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for Defendants City of New York, Mayor Eric Adams, Department of Health and Mental Hygiene (“DOHMH”), and Commissioner Ashwin Vasan (collectively, “Defendants”), in the above-referenced matter. Defendants respectfully request the Court strike Plaintiffs’ Fourth Amended Complaint as untimely and dismiss this case with prejudice. Alternatively, Defendants request a fourteen (14) day extension of time, from January 22, 2024 to February 5, 2024, for Defendants to respond to the Fourth Amended Complaint. This is Defendants’ first request for an extension of time. Plaintiffs’ counsel would only consent to a one week extension of time and informed the undersigned that she forgot to file the exhibits to the Fourth Amended Complaint but that the delay should not be a concern because “they are the same exhibits so there are no surprises.”

On January 10, 2024, the Court graciously granted Plaintiffs one final time to amend their complaint and emphasized that the Fourth Amended Complaint must be filed “**on or before January 15**” and for Defendants to renew their motion to dismiss via letter by January 22, 2024. See ECF Docket Entry dated January 10, 2024 (emphasis added). Plaintiffs did not file their Fourth Amended Complaint on January 15. Instead, Plaintiffs filed their Fourth Amended Complaint on January 16, 2024 at 11:55pm. See ECF Dkt. No. 81. On January 17, 2024, Plaintiffs’

counsel informed the undersigned that she forgot to file the entirety of the Fourth Amended Complaint and that the exhibits would be filed sometime on January 17, 2024. Thus, Plaintiffs have failed to timely file their Fourth Amended Complaint and accompanying exhibits as ordered by this Court. Notably, Plaintiffs never requested an extension of time to file their Fourth Amended Complaint. Plaintiffs also cannot rely on the fact that January 15 was a federal holiday because Rule 6, Federal Rules of Civil Procedure, does not apply when the Court sets a specific date on which a party must file. See Miller v. City of Ithaca, 2012 U.S. Dist. LEXIS 63433, at *3 (N.D.N.Y. 2012) (“Because, however, the Court set a specific, stated deadline, Rule 6(a) is inapplicable and papers were required to be filed on or before March 31, 2012 regardless of whether March 31 was a weekend or a holiday.”).

Accordingly, for the reasons set forth above, Defendants respectfully request the Court strike Plaintiffs’ untimely Fourth Amended Complaint and dismiss this case with prejudice. Alternatively, Defendants respectfully request a 14-day extension of time, to February 5, 2024, to respond to the Fourth Amended Complaint on behalf of Defendants so this Office may adequately investigate the new allegations made in the Fourth Amended Complaint and prepare a proper response .

Defendants thank the Court for its attention and consideration of this request.

Respectfully submitted,

/s/ Elisheva L. Rosen
Elisheva L. Rosen
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Honorable Lois Bloom (by ECF)
United States Magistrate Judge